IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 18TH DECEMBER 2006 / 27TH AGRAHAYANA 1928

Crl.Rev.Pet.No. 4162 of 2006(A)

CRA.558/2005 of II ADDL.SESSIONS COURT, KOLLAM
CC.629/2003 of JUDL.MAGISTRATE OF FIRST CLASS-I, PUNALUR

.....

REVN. PETITIONER: ACCUSED:

BABY SIMON,
CHARIPPURATHU GRACE HOUSE,
MELILA MURI, MELILA VILLAGE,
KOTTARAKKARA TALUK.

BY ADV. SRI.S.RAJEEV
SRI.K.V.VINODKUMAR

RESPONDENTS: COMPLAINANT & STATE:

---

1. THOMAS, S/O.CHERIAN,
THOTTATHIL VEEDU, PONNGALLOOR MURI,
EDAMULAKKAL VILLAGE, PATHANAPURAM TALUK.

2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SRI.K.M.KAMMAPPU.

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 18/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P.BALACHANDRAN, J.

- -

Crl.R.P.NO.4162 OF 2006

- -

Dated this the 18th day of December 2006

ORDER

This revision is filed by the petitioner challenging the conviction and sentence passed against him concurrently by the courts below for offence under Section 138 of N.I. Act. The sentence awarded to the petitioner for offence under Section 138 of N.I. Act is simple imprisonment for three months with a further direction to pay the cheque amount of Rs.60,000/- to PW1 by way of compensation under Section 357 (3) Cr.P.C. and in default to undergo simple imprisonment for a further term of two months. Counsel for the petitioner submits that there is no merit in this revision and that his only prayer is for two months time to pay the amount covered by the cheque and at the same time to have the sentence of imprisonment avoided.

2. Having considered the entire aspects of the case, I am of the view that the sentence of imprisonment has to be limited to one days' imprisonment till rising of court and the petitioner can be granted two months time to pay off the entire debt and in default to undergo simple imprisonment for three months.

3. In the result, while confirming the conviction of the petitioner for offence under Section 138 of the N.I. Act concurrently by the courts below, I modify and reduce the sentence to one of simple imprisonment for one day till rising of court with a further direction that the petitioner shall pay the entire compensation amount of Rs.60,000/- positively within two months from today and in default to undergo simple imprisonment for a term of three months. Petitioner shall surrender before the Judicial First Class Magistrate-II, Punalur positively in the FN on 19-2-2007 (19th February 2007) to serve the sentence and shall also produce evidence in proof of payment of the entire amount to the first respondent/complainant or otherwise he has to deposit the entire amount positively on that day before court. In case of failure, the sentence in default of payment of the compensation amount shall be enforced against the petitioner forthwith by the Magistrate.

This revision is disposed of as above.

K.P.BALACHANDRAN, JUDGE

jes